

Executive Summary

Subj: Proposed Pilot Program for Accelerated PEB Review for the Severely Injured (APEBSI)

A severely Injured Marine or sailor (SIMS) may require extended periods of time for recovery and rehabilitation (18-24 months). This recovery period puts enormous strain on the SIMS and family, both emotionally and financially.

Currently, SIMS are placed on light duty pending a Medical Evaluation Board (MEB) review and then subsequent periods of Limited Duty during the recovery and rehabilitation process prior to submission to the Physical Evaluation Board (PEB). During this time, the SIMS remains on active duty and receives full pay and allowances (taxable¹). However, prior to separation the SIMS are entitled to only limited assistance from the Department of Veterans Affairs and other government agencies. As a result, a large portion of the attendant duties and expenses for SIMS fall upon family members and friends. This oftentimes jeopardizes even the strongest relationships resulting in separation, divorce, and abandonment. Also, the longer the period of recovery, the less likely the SIMS will be retained in service or want to be retained in service.

Therefore, in order to ease some of the emotional and financial strain on SIMS, family, and friends, it is proposed that SECNAVINST 1850.4E be modified to test a pilot program that will maximize DOD, VA, and other benefits to SIMS and family members. This hybrid program blends the benefits offered by DOD, VA, and other government agencies.

PROPOSAL

Based upon a medical officer's prognosis that the injury will require a prolonged recovery period (more than 12 months), the SIMS case will be forwarded to the PEB for adjudication within the first fifteen days of sustaining the injury. With a long-term disability prognosis, the PEB can issue a 100 percent rating and transfer the SIMS to the Temporary Disability Retired List² (TDRL), which also triggers the issuance of the DD214 (required for VA Disability Compensation); and, the VA can make a memorandum rating of 100 percent pursuant to ¶28. This expedited action allows VA to "front-load" tax-free cash and other benefits to the SIMS during their most critical period of need (refer to Slides 4, 18, and 19).

Some may criticize the pilot program as a "railroading" or "dumping" of the SIMS warriors off to the VA. But that is not the case. By incorporating three other changes in current policy, the SIMS will see no difference in the support situation, other than more cash on-hand. First, the TDRL entitles the SIMS to medical care at the MTF. In order to retain the priority of care for SIMS, the combat injured will be categorized as SECNAV designees. Second, a participant in the Pilot Program will

¹ The Crosby-Puller Combat Wounds Compensation Act (109 Bill Tracking H.R. 771) seeks to grant combat injured the same tax-free pay as they received in the combat theater during the recovery period.

² TDRL permits the SM to remain in a retired status for five years, subject to periodic review of the case. A 100% PEB rating entitles the SM to 75% of base pay (tax-free, if combat related). All other retiree benefits apply during TDRL. At the conclusion of the five-year period, the SM is returned to duty, issued a severance payment, or transferred to the permanently retired list. During the TDRL period, the rating cannot be reduced.

be permitted to transfer from the TDRL to active duty upon a finding of "fit" by the PEB without having to re-apply. Third, the SIMS will be allowed to remain in military quarters for one year after being transferred to the TDRL³. Participation in the program is elective and the SIMS retains the usual appellate rights, as well as the right to "opt-out" of the program, but while in the program, the SIMS consents to comply with all medical directives with regard to treatment and therapy. The participant will also execute HIPPA and Privacy Act releases to ensure that all appropriate support organizations are able to timely assist.

To further avoid any perception that the SIMS is being "railroaded" or "dumped" off to the VA, the entire program will be presented to the SIMS and family (or advisor) by a military officer (O-4/5) to include a complete print-out of all payment sources, off-sets, amounts, and benefits (refer to Slide 17). When the SIMS and family are presented with the facts regarding the payments and benefits available during the recovery period, fear and uncertainty should be reduced. The reduction in future uncertainty and the clarification of financial resources available should help to relieve financial stressors that will permit a greater focus on healing and family adjustments.

Furthermore, in addition to receiving two to three times current income tax-free, the SIMS will be able to receive all VA and other government agencies benefits for which the SIMS is eligible, including aid and attendance payments, independent living, adaptive housing, 7/24 nursing care, education, vocational rehabilitation, computer assisted technology, etc., while remaining in the military environment, military medical care and case management, and, the right to return to active duty as soon as deemed "fit". Finally, if the SIMS retains a 100 percent disability rating for five months and has a prognosis for a further twelve months of disability, the SIMS may be entitled to receive Social Security disability payments⁴. During the 100 percent rating period, the family members of the SIMS may become eligible to receive many benefits available from VA and other government agencies.

Many of these benefits are currently denied to our SIMS while we retain them on active duty for rehabilitation of injuries. By expediting the cash and benefits for our SIMS, we are able to improve the quality of their lives and the lives of their families.

While provisions for the return of the SIMS to active duty have been included, should they be found "fit" and elect to do so, our historic data indicates they will not do so. This pilot program is not offered as an end-all for disability policy reform, but rather, as a starting point. And if circumstances subsequently demonstrate that these changes are not in the best interests of the SIMS, the ASN retains the equitable power to correct any inequities they may suffer. It is our belief that few SIMS will return to duty, however, the vast majority of SIMS will be unduly prejudiced by the continuation of the same old policies. We have an opportunity to make a remarkable difference in the quality of life for many SIMS suffering severe injuries. Change is within our control.

³ OPNAV 11101.13J (Commander's Discretion)

⁴ Subject to SSA eligibility criteria